

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 78

50th Legislature, 1st Session, 2011

Tracking Number: .183530.1

Short Title: School District Bullying Prevention Programs

Sponsor(s): Senator Mary Jane M. García and Representative Rick Miera

Analyst: Kevin Force

Date: February 1, 2011 (revised)

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

SB 78 adds a new section to the *Public School Code* to require:

- the Public Education Department (PED) to establish guidelines for bullying prevention policies; and
- local school boards to:
 - promulgate bullying prevention policies by August 2011; and
 - implement bullying prevention programs by August 2012.

Fiscal Impact:

This bill does not contain an appropriation.

Fiscal Issues:

According to the PED analysis, the provisions of SB 78 to require the department to amend rules and develop guidelines for bullying prevention programs would:

- cost each school district about \$950 to purchase a bullying prevention program; and
- require additional costs for annual training of school staff.

According to the Administrative Office of the Courts (AOC):

- bullying may trigger legal responsibilities for schools under both federal and state laws;
- any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions; and
- there may be an increase in the amount of work that needs to be done by the courts, requiring additional resources.

While, of necessity, there are costs associated with promulgating and implementing anti-bullying policies and programs, it may be important to note that these costs should be balanced against other potential costs to schools, school boards, and municipalities. For example, liability costs, whether in regard to settlements, damages, or even merely the cost of defense against a personal injury lawsuit resulting from some form of bullying, are difficult to predict but may be costly. For instance, as a result of the recent hazing incident in Las Vegas, personal injury lawsuits were filed in Las Vegas District Court against the Las Vegas Board of Education, the district's current and former superintendents and the athletic director at Robertson High School, as well as several other members of the Robertson faculty.

Substantive Issues:

PED, the Department of Health (DOH), and the Children, Youth and Families Department (CYFD) all cite *The New Mexico Youth, Risk and Resiliency Survey (YRRS)*, a biannual survey administered in New Mexico public schools in grades 9-12. The 2009 YRRS was the first to include measures addressing the issue of bullying. Among its findings, the 2009 YRRS indicated:

- 31.2 percent of New Mexico middle school students reported being bullied in the last 12 months;
- 19.5 percent of New Mexico high school students, as compared to 19.9 percent nationally, reported being bullied in the last 12 months on school property;
- 7.2 percent of students missed at least one day of school in the preceding month because they felt unsafe;
- New Mexico ranked 17th in the nation for students who skipped school because they felt unsafe;
- New Mexico ranked 11th in the nation for students who were bullied at school; and
- the rate of New Mexico students who skipped school because they felt unsafe within the past 30 days was 7.2 percent, as compared to the national rate of 5.0 percent.

The 2011 survey, to be conducted in September, will include for the first time a measure specifically dealing with the growing problem of cyber-bullying.

Nationwide, the growing incidence of bullying and, in particular, cyber-bullying and the accompanying growing incidence of youth suicide, has led increasing numbers of jurisdictions to enact anti-bullying statutes. According to "Find Youth Info,"¹ cyber-bullying differs from traditional bullying in that:

- it is highly accessible and can occur at any time both at school and at home;
- messages and images can be distributed to a wide audience very quickly;
- it is often anonymous, making it difficult to identify the perpetrator and therefore may encourage youth to engage in behavior that they would not do face-to-face;
- youth may be nervous to report cyber-bullying because they fear adults will limit their access to technology; and
- bystanders and witnesses to cyber-bullying are anonymous, viewing the harmful material on a website but not dealing with it face to face.

¹ http://www.findyouthinfo.gov/spotlight_cyberBullying.shtml (FindYouthInfo.gov was created by the Interagency Working Group on Youth Programs, which is composed of representatives from 12 federal agencies that support programs and services focusing on youth, including the Departments of Defense, Education, and the Interior, and the Office of National Drug Control Policy.)

According to the National Conference of State Legislatures, 34 states have enacted legislation addressing the problem of cyber-bullying since 2005². For example:

- Massachusetts SB 2404 (2010) “Prohibits bullying on school grounds or at a school-sponsored or related activity, or through the use of an electronic device whether the device is school-owned or not, requires age-appropriate instruction, requires the development of an anti-bullying plan, authorizes anti-discrimination or harassment policies, requires related professional development.”
- Rhode Island SB 2012 (2008) “Expands the definition of student discipline codes relating to harassment or bullying to include electronic communications; includes a computer, telephone, cellular telephone, text-messaging device and personal data assistance devices.”
- Oregon HB 2599 (2009) “Requires school districts to prohibit harassment, intimidation, bullying or cyber-bullying, considers a school district to be nonstandard if school district does not comply with requirements, relates to interference with the psychological well-being of a student, provides for protected classes of status including race, color, religion, sexual orientation, national origin, marital status, source of income or disability, includes behavior at school-sponsored activities, school transportation and bus stops.”

Background:

- As early as 2003, the Legislative Education Study Committee (LESC) heard testimony from New Mexico Voices for Children about the consequences of bullying, not only for the bullies and their victims, but also for bystanders. These consequences include poor school performance; truancy; delinquency; further violence, including school shootings; depression; and suicide. This testimony also noted that bullying prevention policies and programs reduce the incidence rate of bullying by 50 percent; and that, although such programs do not require a new curriculum, their successful implementation does require a comprehensive change in school culture and environment. Also, according to Voices for Children, the federal Office of Juvenile Justice and Delinquency Planning, the Health Resources Services Administration, and the US Department of Education are all promoting bullying prevention programs as a proven means to create safe schools, improve student performance, and reduce criminal behavior.
- In 2004, LESC-endorsed legislation (SB 185, *Development of Bullying Prevention Programs*) was introduced to define the term “bullying;” allow PED to establish guidelines for bullying prevention policies by local school boards; allow each local school board to promulgate a bullying prevention policy by August 2005; and allow each local school to implement a bullying prevention program by August 2007.
- While SB 185 did not pass, the 2004 Legislature appropriated \$350,000 to PED to support bullying prevention statewide.
- During the 2009 legislative session a joint memorial (HJM 31, *Study the Effects of Bullying*) was introduced. Although it did not pass, PED, DOH, and CYFD, still

² <http://www.ncsl.org/default.aspx?tabid=12903> (NCSL list of anti-cyber-bullying bills enacted, by state.)

undertook the study³, resulting in several recommendations to the Legislature, including to:

- ensure all students receive bullying and violence prevention education through quality health education by making health education a graduation requirement taught by PED licensed health education instructors. (This recommendation was accomplished by HB 44 (2010), Laws, Ch. 110, Section 1,);
 - fund universal, school-based, pre-kindergarten through twelfth grade, programs with strong evidence of effectiveness in preventing or reducing violent behavior; and
 - fund a data sharing system that allows state agencies (i.e. PED, DOH, and CYFD) to share information on incidence of school-based violence and injury in a timely manner in order to assist in better collaboration and implementation on bullying and violence prevention programs statewide.
- According to PED's analysis:
 - in November 2006, the department adopted a Bullying Prevention Rule (NMAC 6.12.7) requiring all public school districts, including charter schools, to adopt and implement an anti-bullying policy, no later than April 1, 2007;
 - all public school districts, including charter schools, must also have a Safe School Plan, which includes the bullying prevention policies that they have adopted;
 - the department has developed a School District Anti-Bullying Policy Guidance document, available on their website, to support all public school districts, including charter schools, in developing and implementing their policies; and
 - SB 78 requires schools to go further than merely implementing policy; it requires them to implement a bullying prevention program.

Related Bills:

SJM 5 *Study Effects of Bullying* (for the LESC)

³ *Report on Study the Incidence, Nature and Effects of Bullying and Other Forms of Harassment Affecting New Mexico Children and Youth* (December 2009)